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ROSENMAN & COLIN LLP
805 15TH STREET NW FLOOR 9
WASHINGTON DC 20005-2212

TELEPHONE: (202) 216-4600
FACSIMILE: (202) 216-4700
WEB SITE: <http://www.rosenman.com>

October 2, 2000

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OFFICE OF THE SECRETARY

575 MADISON AVENUE
NEW YORK NY 10022-2585

ONE GATEWAY CENTER
NEWARK NJ 07102-5397

101 SOUTH TRYON STREET
CHARLOTTE NC 28280-0008

SPECIAL COUNSEL
LEE W. SHUBERT
(202) 216-4695

Magalie R. Salas, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-A325
Washington, DC 20554

Re: Disclosure Statement behalf of **IDAHO BROADCASTING
CONSORTIUM, INC.**, respecting an MM Docket No. 99-
151

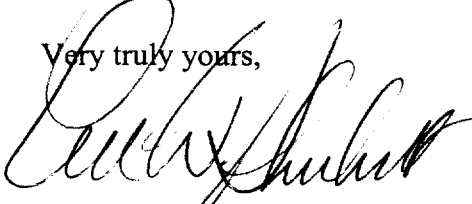
CLIENT No. 43209-84829

Dear Ms. Salas:

Transmitted herewith, on behalf of **IDAHO BROADCASTING CONSORTIUM, INC.**, is an original and four copies of its **PETITION FOR RECONSIDERATION** connection with the above-referenced proceeding involving the amendment of the FM Table of Allotments [Section 73.202(b) of the Commission's Rules] respecting Rangely, Ridgway and Silverton, Colorado.

Should further information be desired in connection with this matter, kindly communicate directly with this office.

Very truly yours,



Lee W. Shubert

Enclosures (5)

cc(w/ 1 enc.): As per the Certificate of Service
Mr. Frederic W. Constant
Mr. Melvyn Lieberman

LWS/dml

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. 99-151
Table of Allotments,)	RM-9559
FM Broadcast Stations.)	RM-9932
(Rangely, Silverton and)	
Ridgway, Colorado))	

To: Chief, Allocations Branch
Mass Media Bureau

PETITION FOR RECONSIDERATION

Idaho Broadcasting Consortium, Inc. ("IBC"), by its counsel and pursuant to Section 1.106 of the Commission's Rules (47 U.S.C. §1.106), hereby submits this Petition for Reconsideration ("*Petition*") respecting the Report and Order issued by the Chief of the Allocations Branch, Policy and Rules Division, regarding the above-captioned proceeding on September 1, 2000 ("*Order*"), whereby the FM Table of Allotments was amended to as follows:

<u>City</u>	<u>Channel No.</u>
Rangely, CO	279C1
Ridgway, CO	279C1
Silverton, CO	238A in lieu of 279C2

The allotment to Ridgway was made without the 26.3 kilometer (16.3 mile) site restriction that was proposed by IBC. IBC is the permittee of Radio Station KBNG(FM), Silverton, Colorado (FCC Facility ID No. 89280).

The Order eschewed the proposed site restriction citing the Commission's policy, articulated in *Vacaville, California*, 4 FCC Rcd 8315 (1989), *recon. denied*, 6 FCC Rcd 143

(1991), which favors “the least theoretical site restriction necessary” when making new allotments. Accordingly the reference coordinates for Rangely, Colorado, as proposed in the *Notice of Proposed Rule Making*, 14 FCC Rcd 7184 (1999) were retained. IBC hereby seeks reconsideration of the decisions not to adopt the reference coordinates for (i) Rangely and (ii) Ridgway, as initially proposed by IBC. In support thereof, the following is respectfully submitted.

The fault with the retention of the Commission’s originally proposed reference coordinates for Rangely, Colorado, in lieu of those proposed by IBC, is that the decision conflicts with the precedent established in *Fair Bluff, North Carolina*, 11 FCC Rcd 12662 (1996). There, in a situation similar to the instant case, a site restriction was proposed for a new allotment. The site restriction was necessary to permit a licensee to improve its station’s facilities to allow the use of an omnidirectional, rather than a directional, antenna. In the threshold order pertaining to Fair Bluff, *Vacaville* was applied. On reconsideration, however, the Commission found that the threshold order was contrary to the public interest because it stymied the improvement of an existing facility by favoring a vacant and unapplied-for channel. The *Fair Bluff* order plainly observed that the policy articulated in *Vacaville* was the result of an allotment contest, where one channel was to be favored “*in lieu of the requested Channel*,” in order to resolve a mutual exclusivity with a petition seeking the upgrading of a Vacaville station. Hence, *Fair Bluff, North Carolina*, holds that the Vacaville decision “stands for the policy that the Commission will not deny another station’s request to improve its facilities solely because of a ... site preference.”

Pivotal in the *Fair Bluff* decision was the fact that two of three participants in the proceeding raised no objections to the imposition of the new site restriction. Moreover, the argu-

ments of the party opposing the restriction were found by the Commission to be merely speculative.

In the case of Rangely and Ridgway, the proposal advanced by IBC was aimed to permit KBNG to improve its class of service from a C2 to a C1, thereby enhancing the KBNG's service area and increasing total population that the station will serve. Its proposal for Ridgway, while conflicting with the Rangely proposal, did not contemplate the preference of one channel allocation in lieu of another. Rather, the allotments at Rangely and Ridgway may mutually co-exist, with suitable spacing. More importantly, however, IBC's proposed site restriction concerning the Rangely allotment was *totally* unopposed, even by the proponent for the Rangely allotment. In short, the Commission's adoption of IBC's threshold proposal for Rangely and Ridgway, including the site restriction for Rangely, would be four-square with the rationale set for in the *Fair Bluff* case.

Accordingly, IBC submits that, in the case of the allotments for Rangely and Ridgway, the precedent in *Fair Bluff, North Carolina* controls and supercedes *Vacaville*. Thus, the reference coordinates proposed by IBC for Ridgway, as well as site restriction proposed by IBC for Rangely, should be adopted. On reconsideration, IBC respectfully requests that Order be modified to specify reference coordinates for Ridgway at 38-10-13 NL and 107-53-59 WL, and reference coordinates for Rangely at 40-19-02 NL and 108-51-46 WL – *i.e.*, a site located 26.3 kilometers (16.3 miles) north of Rangely, thereby making the allotment consistent with the precedent articulated in *Fair Bluff, North Carolina*.

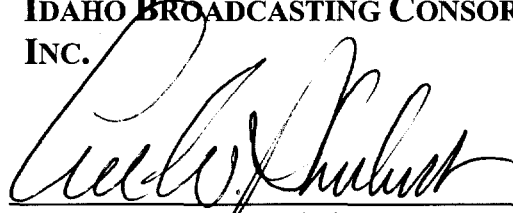
WHEREFORE, the premises considered, IBC respectfully requests that the Allocations Branch (1) reconsider its Order, (2) vacate the reference coordinates specified in the order for

both Rangely, Colorado, and Ridgway, Colorado, and (3) adopt the reference coordinates initially proposed by IBC, as restated above.

Respectfully submitted,

**IDAHO BROADCASTING CONSORTIUM,
INC.**

By:

A handwritten signature in black ink, appearing to read "Lee W. Shubert", written over a horizontal line.

Lee W. Shubert, Esq.
Its Attorneys

ROSENMAN & COLIN, LLP
805 15th Street, N.W., 9th Floor
Washington, DC 20005-2212
Tel: 202-216-4600; Fax: 202-216-4700

October 2, 2000

CERTIFICATE OF SERVICE

The undersigned, an employee of **ROSENMAN & COLIN, LLP**, hereby certifies that the foregoing **PETITION FOR RECONSIDERATION**, respecting MM Docket No. 99-151, on behalf of **IDAHO BROADCASTING CONSORTIUM, INC.**, was mailed or hand delivered* this date by First Class U.S. Mail, postage prepaid, to the following:

Mountain West Broadcasting
c/o Victor A. Michael, President
6807 Foxglove Drive
Cheyenne, WY 82009

*John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
445 Twelfth Street, S.W., Room 3-A266
Washington, DC 20554

*Andrew Rhodes, Esq.
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
445 Twelfth Street, S.W., Room 2-C261
Washington, DC 20554

By: 
Dolly LaFuentes

October 2, 2000